

Deval, Sue

From: Gardiner, Sarah
Sent: 14 April 2004 15:31
To: Deval, Sue
Subject: FW: Kathy Buckland needs our support in her fight for her rights
Importance: High

Sue this was originally sent for Martin Easteals attention but we were copied in. I understand from Gloria that she has not seen it because her machine is down so am sending a copy straight to you. I tried to ring Christine Lyons but she is off sick today Sarah -----Original Message-----

From: Green, Susan
Sent: 14 April 2004 15:26
To: Gardiner, Sarah
Subject: FW: Kathy Buckland needs our support in her fight for her rights
Importance: High

Sarah, as discussed. Sue

-----Original Message-----

From: Shelton, Emma
Sent: 14 April 2004 14:01
To: Easteal, Martin
Cc: Green, Susan
Subject: FW: Kathy Buckland needs our support in her fight for her rights
Importance: High

Please find attached an external email which has been received in the Council's mailbox.

This email has been forwarded to you as we believe the query comes under your area of responsibility. If this is not the case please contact Business Services immediately on Ext 6262 or 6614.

Regards
 Business Services

-----Original Message-----

From: Roma Network [mailto:romale@zahav.net.il]
Sent: 13 April 2004 22:51
To: Roma_Daily_News@yahoogroups.com
Cc: Business Services, Mailbox
Subject: UK: Kathy Buckland needs our support in her fight for her rights
Importance: High

Dear colleagues!

Kathy Buckland needs our support in her fight for her rights.

● On 16 January, Kathy Buckland, pregnant with her third child was brutally evicted from her caravan park: she lost her land, her caravan was burned.

Now Kathy plans to return and claim her land again...

Protest e-mails can be sent to:

Chelmsford Borough Council
 Chief Executive:

15/04/04

1 John Harper Street
Colchester CO1 1RP
Phone 01206 523 528

20 April 2004

RE: PLANNING APPLICATION FOR MEADOWLANDS

Dear Donald,

Thank you for taking up Meadowlands. It is an important one, as I know you appreciate.

Kathy Buckland has today been offered a house, which is progress of a kind, certainly for her and her children.

I enclose papers from Chelmsford BC from which you can glean two maps of the site, referred to as OS Field No 7583 Cranham Road, Little Waltham.

Plot owners include Kathleen Buckland, Jim McCann and Margaret McCann.

But your idea of putting in a planning application for the Romany Guild To cover the whole site sounds the best approach.

I have spoken to the people and everyone has agreed to contribute to the cost. Good, however, if you can go ahead on the basis of a loan of £220 from Bernard as collecting the money from the scattered parties involved will take time.

Angus Wilson is read to challenge the Injunction as soon as a Planning Application is accepted. So that's the first and crucial hurdle.

Neil Weekes sent in an application, it was rejected on a technicality and now we can't get hold of him (does not answer calls etc).

Everybody is mad at him and appreciates that you are stepping into the breach – as without a valid Planning Application, Angus says he can't challenge the injunction.

Call me if you need any more details at this stage.

Kushti bok

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION

IN THE MATTER OF PROSPECTIVE PROCEEDINGS

BEFORE THE HONOURABLE MR JUSTICE DAVID CLARKE

DATED 16 APRIL 2004

BETWEEN:-



CHELMSFORD BOROUGH COUNCIL

-and-

Applicant

- (1) KATHLEEN BUCKLAND
- (2) PERSONS UNKNOWN

Respondents

**ORDER FOR AN INJUNCTION
BEFORE THE ISSUE OF A CLAIM**

PENAL NOTICE

IF YOU THE WITHIN NAMED:

- (1) KATHLEEN BUCKLAND
- (2) PERSONS UNKNOWN

**DISOBEY THIS ORDER YOU MAY BE HELD TO BE IN CONTEMPT OF COURT
AND LIABLE TO IMPRISONMENT OR FINED OR YOUR ASSETS SEIZED**

IMPORTANT**NOTICE TO THE RESPONDENT**

1. This Order prohibits you from doing the acts and obliges you to do the acts set out in this Order. You should read terms of the Order and the guidance notes very carefully. You are advised to consult a solicitor as soon as possible. You have a right to ask the Court to vary or discharge this Order.
2. If you disobey this order you may be found guilty of Contempt of Court and may be sent to prison or fined.

An Application was made on 16 April 2004 by Counsel for the Applicant to the Judge. The Judge heard the Application and read the evidence listed in Schedule 1 at the end of this Order.

THE INJUNCTION ORDER**IT IS ORDERED THAT UNTIL TRIAL OR FURTHER ORDER:**

1. In relation to land known as OS Field 7583, Cranham Road, Little Waltham, Chelmsford in the County of Essex ("the Land") the Respondents whether by themselves or by instructing, encouraging or permitting any other person must not carry out further development on the Land in breach of planning control and, in particular, must not:
 - (1) Use the Land for stationing caravans and/or mobile homes for the purposes of human habitation or any other purpose in breach of planning control;
 - (2) Bring onto the Land any caravans and/or mobile homes for the purpose of human habitation or any other purpose in breach of planning control;

- (3) Bring onto the Land any portable structures including portable toilets and any other items and paraphernalia for purposes associated with human habitation or any other purpose in breach of planning control;
- (4) Bring onto the Land any waste materials and/or hardcore for any purpose including the creation of hardstandings or hard surfaces in association with the use of the Land for the stationing of caravans and/or mobile homes for the purpose of human habitation;
- (5) Carry out any further works to the Land associated with or in preparation for its use for stationing caravans and/or mobile homes for human habitation or any other purpose in breach of planning control.

ORDER FOR ALTERNATIVE SERVICE

AND IT IS FURTHER ORDERED THAT:

Service of this Order and related documentation may be effected by the posting of sealed copies of the said Order, the Application Notice, the Claim Form and evidence in support of the Application and any future documentation in waterproof envelopes at conspicuous parts of the Land and such posting shall be deemed to be good and sufficient service on the Respondents of the said Order, the Application Notice, Claim Form and evidence in support of the Application and any future documentation on the date it was so affixed.

THE COSTS OF THE APPLICATION

AND IT IS FURTHER ORDERED THAT

The Applicant's cost of the Application be reserved.

GUIDANCE NOTES

Effect of this Order – The Respondent

1. A Respondent who is an individual who is ordered not to do something must not do it himself or in any other way. He must not do it through others acting on his behalf or on his instructions or with his encouragement.
2. A Respondent which is a corporation and which is ordered not to do something must not do it itself or by its Directors, officers, employees or agents or in any other way.

Variation or discharge of this Order

The Respondents (or anyone notified of this Order) may apply to the Court at any time to vary or discharge this Order (or so much of it as affects that person) but anyone wishing to do so must first give 48 hours notice, in writing or by fax, to the Applicant's legal representatives. Except that the hours between 5 pm on any Friday and 9am on any Monday cannot be counted as part of the 48 hours notice period.

Effect of this Order - Parties other than the Applicant and Respondent

It is a Contempt of Court for any person notified of this Order knowingly to assist in or permit a breach of this Order. Any person doing so may be sent to prison, fined or have his assets seized.

Interpretation of this Order

1. In this Order the "the Land" means the land known as O/S Field 7583, Cranham Road, Little Waltham, Chelmsford in the County of Essex.
2. In this Order, where there are two or more Respondents (unless the contrary appears):
 - (a) References to "the Respondent" mean both or all of them.

Mrs Kathleen Buckland
5 Blaise Grove
LEICESTER LE4 9UP

From: Grattan Puxon
1 John Harper Street
Colchester CO1 1RP

19 February 2004-02-19

Dear Kathy,

Could you come down to Colchester next Wednesday (25 February)?

I have arranged an appointment with Mr Hicks, your solicitor , for 3.30 that afternoon.

I expect you will also be able to see Detective Miller on Wednesday, at 1.30 at my home (he is calling to confirm this).

I have also spoken to Jeremy Brown, the solicitor. He says you have a good case under Section 7 of the Human Rights Act, claiming Chelmsford abused your home and family life when they evicted you from Meadowlands and destroyed the caravan park.

Under this action, you would also be claiming damages (for loss of the mobile home etc).

We will ask Mr Hicks if he will undertake such an action (if not, we will go back to Mr Brown and get it started through him).

Meanwhile, I'm forwarding you copies of the letter from Mr Hicks, and from Constant (don't let it bother you unnecessarily that Constant is trying to say that your brothers set fire to the mobile home).

Here also is a copy of the letter to Mrs Gardner about your housing application and request for a review of this.

Looking forward to getting that number for Jim (Birdie) Hanrahan in America. I'm going to call him as soon as I get it from you.

OPINION

The following opinion has been obtained by Mrs Buckland in respect of her rights and obligations as a plot owner at OS Field 7583, also known as Meadowlands.

- a) Notwithstanding any Injunction or Order, or legislative regulations under planning schedules, Mrs Buckland is entitled to enter upon her property at will and without hindrance from any party, including the local authority, its agents or police constabulary.
- b) Any obstruction placed for the purpose of hindering Mrs Buckland from entering her land may be regarded, in law, as an obstruction of her right of way, and may be removed by her or at her direction.
- c) Mrs Buckland may bring on to her land any vehicle, motorised or otherwise, including one or more trailer caravans, providing this is for a temporary and limited period only, and not, while the present Injunction applies, for the purpose of habitation.

TO WHOM IT MAY CONCERN

Mrs Buckland has been advised of the Order for an Injunction obtained by Chelmsford BC dated 16 April 2004 and the terms thereof and, in general outline, is aware of the restrictions placed on her, and others, by planning regulations; i.e that no caravan shall be brought onto the land for the purpose of permanent habitation.

Notice:

01245 606580

A.G. Simpson

Head of Democratic Services

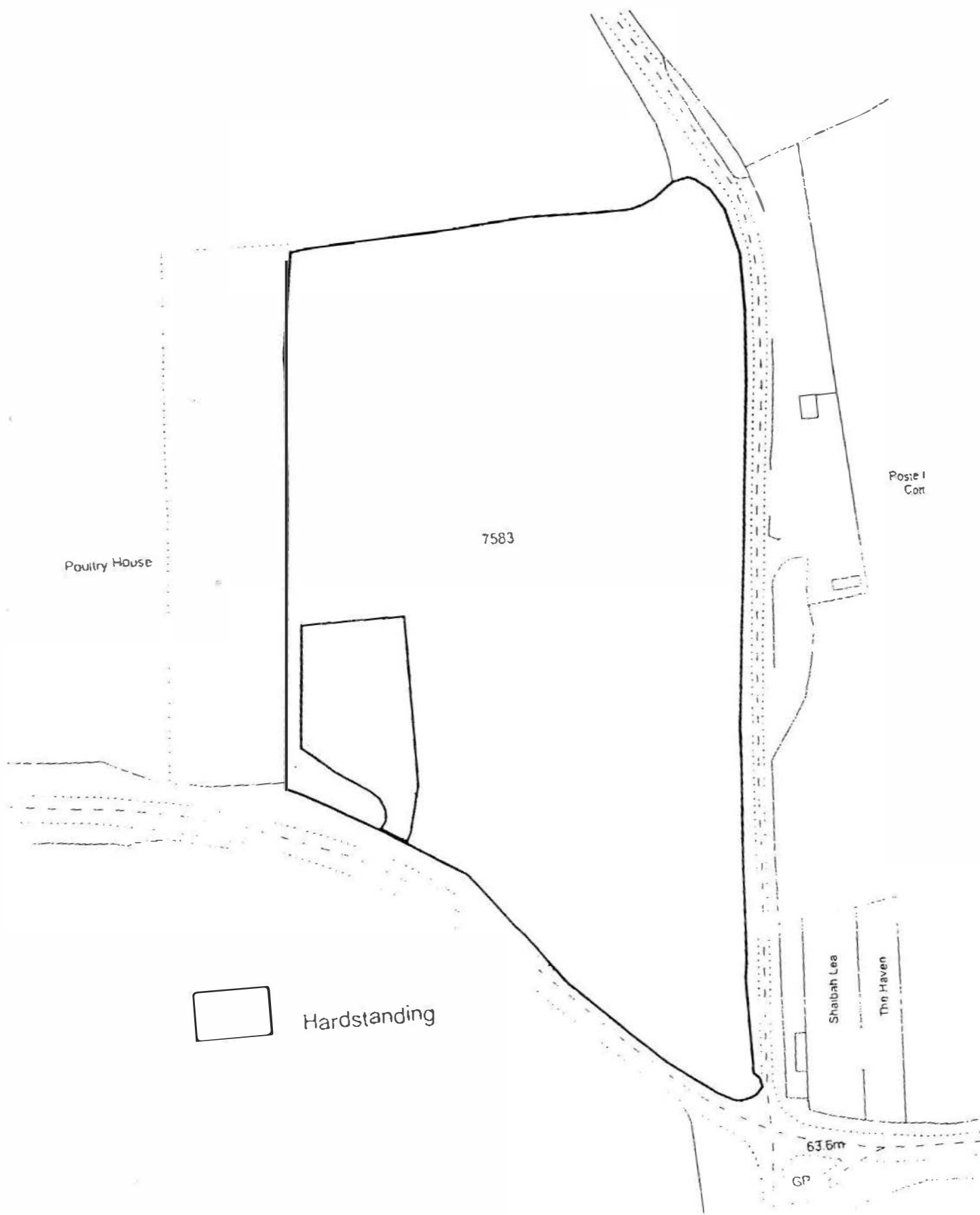
Powers under Section 14 (2)(b) of the
Road Traffic Regulation Act 1984
Closed for max of 21 days.

OS Field No 7583 Cranham Road,
Little Waltham.

1:1250



Chelmsford
BOROUGH COUNCIL
Town Planning Services
Head Office: Hollyman BA (Mons) MRTP/MIMM
Chic Centre, Duke Street, Chelmsford, CM1 1JE
Telephone: 01245 606606



This unauthorised development constitutes a visual intrusion, does not safeguard the residential amenities of the locality and have cause to increase the level of activity in this rural area. Planning conditions could not overcome these objections to the development and accordingly the Council consider that planning permission should not be granted.

5. WHAT YOU ARE REQUIRED TO DO

1. Break up the road way and hardstanding
2. Remove from the land all materials resulting from compliance with the first requirement above.
3. Restore the land to its condition before the breach by re-seeding it with grass.


6. TIME FOR COMPLIANCE

With steps 1 and 2 above: Two calendar months from the date this notice takes effect
 With step 3 above: Four calendar months from the date this notice takes effect.

7. WHEN THIS NOTICE TAKES EFFECT

This notice takes effect on 28th January, 2002, unless an appeal is made against it beforehand.

Dated: 14th December 2001

Signed: 

E.S. Whitfield, Head of Legal Services

on behalf of Chelmsford Borough Council

Civic Centre
 Duke Street
 Chelmsford
 Essex. CM1 1JE

TOWN PLANNING SERVICES
Development Management



P.O. Box 7544, Civic Centre, Duke Street,
Chelmsford, Essex, CM1 1XP

Mrs K Buckland
C/o Donald Kenrick
61 Blenheim Crescent
London
W11 2EG

Your ref:
My ref: 04/01116/FUL/CHS
Please ask for: Chris Smith
Telephone: 01245 606532
Facsimile: 01245 606526
Date: 27 May 2004

Dear Sir/Madam

TOWN AND COUNTRY PLANNING ACT 1990

LOCATION: Field OS Ref 7583 Cranham Road Little Waltham Chelmsford Essex

PROPOSAL: Plot 4 only - Change of use to residential, stationing of one mobile home and one touring caravan for a gypsy family.

APPLICATION NO: 04/01116/FUL

DRAWING NO(s): Location plan, block plan

DATE RECEIVED: 19th May 2004

X Thank you for your letter concerning the above application. I am writing to confirm that your application as set out above has now been withdrawn. The fee from this application will be transferred to the new application received on the 26th May for Plot 5 Cranham Road (Mrs McCann). X

Yours faithfully,

KEITH HOLMES
Development Manager



2003-2004
Quality of the Built Environment

WORTHLEY



INVESTOR IN PEOPLE

Grattan Puxon
1 John Harper Street
Colchester
Essex CO1 1RP
Phone: 01206 523528

Mrs Margaret McCann
Plot 9, Ver Caravan Park
Redbourn By-Pass
St Albans, HERTS AL3 7RQ

RE: LEGAL AID

In issue of eviction from Meadowland Caravan Park (OS Field7583)

17 May 2004

Dear Mrs McCann,

As I said on the phone, I would like to you help after what was done to you by Chelmsford Council during the eviction from your land at the Meadowland Caravan Park. That was a terrible injustice.

If you can fill in these Legal Aid forms, I will send them on to the solicitors in Birmingham (Community Law Partnership).

Make sure you fill in Page 1, "Your Client's Details"

Please sign at the bottom of Page 16 "Statement of case" (I will fill this in).

On the Means Assessment form, please sign at bottom of Page 2 and make sure you give your National Insurance Number and tick that you are receiving Income Support.

Also sign the note so that Dr Donald Kenrick can put in the Planning Application, doing what Neil Weeks should have done.

Post back to me as soon as you can in the envelope provided.

With best wishes

Grattan Puxon

Donald Kenrick
61 Blenheim Crescent
London W11 2EG
Tel: 02077272916
Email: dken@globalnet.co.uk

Date:

I have authorised Donald Kenrick to deal with my Planning Applications, and related work, and no longer wish this to be done by Neil Weeks.

Signed by:

M. McCANN

Witnessed by:

NICHOLAS JONES

Margaret McCann

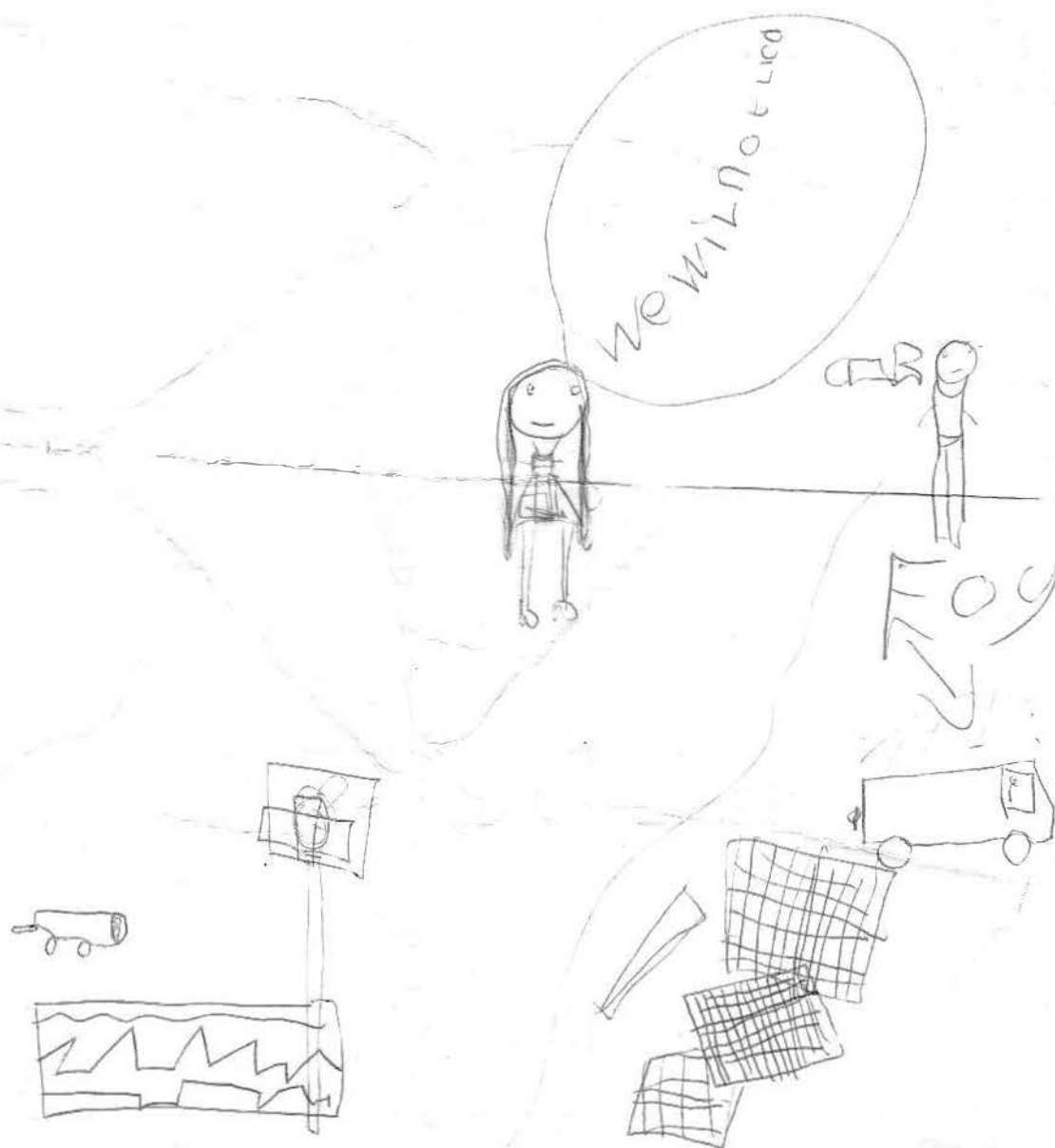
told me on the phone at 11am on 17 May '04

She owns Plot 5, for which she
paid nearly £17,000

Neil Weeks has the Deeds.

During the eviction a generator was
stolen (cost £1,000) and her hut
was destroyed.

PILLS Lichusa



CHELMSFORD BOROUGH COUNCIL

TOWN AND COUNTRY PLANNING ACT 1990

APPEAL BY: MRS M McCANN.

**LOCATION: FIELD OS ref. 7583
CRANHAM ROAD LITTLE WALTHAM
CHELMSFORD ESSEX**

**THE PLANNING INSPECTORATE'S REFERENCE:
APP/W1525/A/05/1173298**

**LOCAL PLANNING AUTHORITY'S REFERENCE:
04/01168/FUL**

SUMMARY OF PROOF OF EVIDENCE

**PUBLIC INQUIRY
29 & 30 SEPTEMBER 2005**



1.0 THE PLANNING APPLICATION THE SUBJECT OF THIS APPEAL

- 1.1 The current appeal is the subject of a planning application that was refused planning permission by the Council in 2004. The application sought the change of use of agricultural land for residential purposes, specifically the stationing of one mobile home and one touring caravan for a Gypsy family.

2.0 SITE AND SURROUNDINGS

- 2.1 The appeal site is located at the junction of Cranham Road and Domsey Lane in Little Waltham, and measures approximately 25 metres by 40 metres and forms part of a large field approximately one hectare in size, which is bounded on all sides by hedging.
- 2.2 There is no current activity on the land and the previous unauthorised Traveller caravan site use ceased in January 2004. This Council used the full range of enforcement and legal powers to secure the cessation of the previous unauthorised use of the land. However, despite its initial success this action cannot deliver long-term protection of this land
- 2.3 The Council sees that any further enforcement action on the land is in an unrealistic way to resolve this planning problem. The Council believes that the grant of planning permission for one Traveller pitch will open this site for further unauthorised development to the detriment

of this rural location. The avoidance of future conflict with this Council and the Traveller community is essential.

3.0 PLANNING POLICY AND GUIDANCE

Development Plan Policies

- 3.1 The relevant Development Plan policies fall into three categories, protection of the countryside, Gypsy site provision and general housing provision.

Protection of the countryside

- 3.2 RPG9 requires the greater awareness of the need to both protect and improve the rural environment.
- 3.3 Replacement Structure Plan Policies CS2 and C5 relate to the control of development within the rural areas situated outside the Metropolitan Green Belt.
- 3.4 The site has no specific allocation within the CBLP, but is located to the west of a protected lane. The site is situated within the rural area where development is sporadic and low-key. Policy ENV1 requires that all development should respect the character of the area and not have an adverse impact on the surrounding properties.

Gypsy site provision

- 3.5 Policy H6 of the Replacement Structure Plan states that existing Gypsy site provision will be maintained and further site provision for Gypsies

residing in or resorting to the Plan area will be made, where appropriate, in adopted local plans.

- 3.6 Policy HO17 of the CBLP sets out the general approach to take when considering planning applications from Gypsy families. This refers to the dual responsibilities of local authorities to make adequate provision and also to protect the rural areas.

General housing provision

- 3.7 Proposals for the development of new housing including the siting of residentially used mobile homes are directed to the existing urban areas including defined settlements and excluded from the Green Belt this is set out in CBLP Policy HO4.

Other Policy Considerations

- 3.8 Material consideration is also given to the following Guidance Notes and Circulars, which are discussed in further detail in my main Proof of Evidence:

- PPS7 Sustainable Development In Rural Areas
- PPG3 Housing
- Circular 1/94 Gypsy sites and Planning
- Circular 18/94 Gypsy Sites Policy and Unauthorised Camping

4.0 PLANNING MERITS

Main Issues

- 4.1 It is considered that the principal issue in considering the planning merits of this case has regard as to whether or not the current proposal satisfies all the criteria contained within Policy HO17 of the Chelmsford Borough Local Plan.

Status of Applicant (Criterion (i))

- 4.2 In the case of Wrexham County Borough Council v. National Assembly of Wales and Another, the Court of Appeal ruled that whether applicants for planning permission are of a nomadic habit is a functional test, to be applied at the time of the determination of the application having regard to:

- the fact that the applicants do or do not come from a traditional Gypsy background and/or have or have not followed a nomadic way of life in the past;
- the fact that the applicants do or do not have an honest and realistically realisable intention of resuming travelling and, if they do, how soon and in what circumstances; and
- the reason or reasons for the applicants not living a travelling way of life at the time of the determination and their likely duration.

- 4.3 The appellant has stated that she is from a traveller background. However, whether the appellant has followed a nomadic way of life in the past, which is to travel for the purpose of making or seeking their livelihood, rather than simply to travel, is unclear. The first "test" is only partially satisfied by the appellant.
- 4.4 In respect of the second and third matters identified, no evidence has been provided. Neither has the applicant shown an intention to seek a site with planning permission or to be allocated a Local Authority placement at an official gypsy caravan site.
- 4.5 As the application lacked any clear information about the applicant's cultural background the Council deemed that the determination of the application should make that assumption to ensure the correct weight was given to the Human Rights and Race Relation considerations.

Personal Need For A Site.

- 4.6 The applicant has not demonstrated, with regard to the personal circumstances of the family, that there is a need for a caravan site in this particular locality. However, it is clear that an assessment of needs, in the wider sense, should be a matter for the Local Planning Authority to address and this burden should not be placed on the applicant.

Need (Criterion (ii))

- 4.7 A general need for Gypsy caravan sites is a material consideration in considering proposals for new Gypsy caravan sites.

4.8 A spot count of Gypsy caravans and families is provided by local authorities bi-annually for the Office of the Deputy Prime Minister. The most recent count (January 2005) there were a total of 15,410 Gypsy caravans in England, 3558 (23%) on unauthorised encampments and 11852 (77%) on authorised sites, both private and public.

4.9 It is accepted that there is a level of need for Gypsy site provision **nationally**, although the exact amount of provision is difficult to assess.

Need for Gypsy sites: Local

4.10 The total number of pitches for Gypsy families in Chelmsford is 84 (at January 2005). This Council has always made provision historically for pitches when needs have been identified.

4.11 A comparison of Chelmsford's site provision against other districts clearly shows that Chelmsford has made a significant effort in allocating sites for Gypsies.

4.12 Nationally, there were (ODPM's Statistics) 15,410 caravans counted in January 2005, 3980 located in the Eastern Region and 1,007 in Essex. There were 137. 14% of the total number of caravans counted in Essex. 50 of the 137 were on authorised private sites, 34 on local authority sites.

4.13 The Council are continuing in both gypsy site provision and the upgrading of existing Gypsy sites. This can be seen by the grant of two recent planning permissions for single Gypsy pitches and the Meadow Lane redevelopment package, which includes granting planning

permission for 18 pitches (3 pitches for sale), the supply of mains drainage and environmental improvements for the locality.

Effect on Character and Appearance of Area and Screening
Criteria (iii) and (viii)

- 4.14 The immediate surroundings of the appeal site comprise principally open countryside, scattered dwellings situated along a narrow country road and separated by fields.
- 4.15 The appeal site is in a prominent location and is highly visible. The stationing of a mobile home and a touring caravan together with any ancillary development would be visually intrusive and together with the increased activity generated be extremely harmful to the appearance and character of this rural area.
- 4.16 The four boundaries of the site are at the present time well screened by mature hedgerows and earth bunds. The earth bunds are temporary to prevent re-occupation and are to be removed. The visual intrusion and the attendant activity which will be created by the proposed development would have a detrimental impact on the character and appearance of this rural area.
- 4.17 The appeal site is one small part of a large piece of undeveloped land. The appeal site is situated in the middle of this land with limited access to the highway, Cranham Road. To grant planning permission for the proposal the subject of this appeal would inevitably lead to further

breaches of planning control occurring on the remaining part of this large field leaving the land vulnerable to a possible influx of Travellers.

Highway Safety (Criterion iv)

- 4.18 The Highway Authority at the time of the submission of the planning application raised no objection in relation to highway safety.
- 4.19 The Council has concerns that there would be issues of highway safety should this appeal be allowed and should further incremental unauthorised development occur. The access point to the site is on a dangerous and fast country road with limited views of oncoming traffic.

Drainage (Criterion v)

- 4.20 Environmental Services commented at the time of the planning application that there would be a requirement for this site to be licensed under the Caravan Sites and Control of Development Act 1960.

Effect on Residential Amenity (Criterion vi)

- 4.21 The proposed development would be damaging to the character and appearance of the countryside, and given the attendant activity which would be generated by the addition of a residential unit on this land and would have an adverse effect on the amenities currently enjoyed by the occupiers of nearby dwellings.
- 4.22 A planning permission may encourage further applications to station mobile homes and caravans on the whole of the field (including the appeal site). Given the size of the field there exists the massive

potential for increased development for purposes of human habitation.

This would seriously damage the amenities of local residents.

**Loss of Agricultural Land (Criterion vii Potential Damage to
Woodlands or land of other Special Value (Criterion ix))**

- 4.23 The land at the site is categorised as the "Best and Most Versatile Agricultural Land" and this land is not afforded any special protection in that it does not fall within a Special Landscape Area or Nature Conservation Zone.

5.0 OTHER MATERIAL CONSIDERATIONS

- 5.1 Consideration has also been given to Human Rights as any refusal of planning permission is likely to engage Article 8 and Article 1 of the First Protocol of the European Convention on Human Rights.
- 5.2 In my view none of the matters raised by the appellants within the appeal forms change the conclusion that the Council reached in refusing planning permission for these applications.

6.0 CONCLUSIONS

- 6.1 On the basis of the evidence submitted, I consider that this appeal should be dismissed. The following conclusions can be drawn from my evidence.

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6.0 CONCLUSIONS

- 6.1 On the basis of the evidence submitted, I consider that this appeal should be dismissed. The following conclusions can be drawn from my evidence.

- 6.2 It is recognised that in this area of the South East, the travelling community and indeed elements of the settled community on low incomes have significant difficulty in finding suitable accommodation. The Planning system does what it can to reconcile competing needs for land. In the case of the settled community, the Authority has policies that encourage affordable housing. In the case of the travelling community the Authority has policies that allow for private sites to be established as an exception to the normal presumption against development in countryside beyond the Green Belt and provides a limited number of public sites. Neither of these policies are able to guarantee that all needs are met. There is undoubtedly hardship in both communities as a consequence of the scarcity of land and the demands on the little land that is available for development
- 6.3 The development is in clear conflict with the Statutory Development Plan. In accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 the appeal should be dismissed unless material considerations indicate otherwise. I have considered the relevant material considerations, namely, national policy, local policy, and the visual impact of the development all of which support a decision in accordance with the Development Plan. I do not consider that there are material considerations of sufficient weight to indicate otherwise.
- 6.4 Having regard to the above, the Inspector is invited to dismiss this appeal.